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Supreme Court refuses early hearing for disqualified MLAs

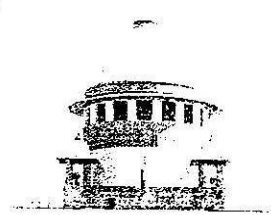
They have challenged their ouster under anti-defection law

LEGAL CORRESPONDENT
NEW DELHI

The Supreme Court on Monday refused to entertain an oral plea by a lawyer for early listing of petitions filed by several disqualified legislators against their ouster under the anti-defection law from the State Assembly.

A Bench led by Justice N.V. Ramana rejected the oral mentioning made by the advocate-on-record. Several MLAs, including Pratapgouda Patil and A.H. Vishwanath, have approached the apex court jointly and separately. Their petitions have arraigned the then Speaker, the State of Karnataka, Congress Legislature Party leader Siddaramaiah, State Congress chief Dinesh Gundu Rao, and former Chief Minister H.D. Kumaraswamy as respondents. The petitions urge the court to set aside the former Speaker's decision to disqualify them.

"The petitioners have a fundamental right under Article 19 to carry on any trade, business and profession. Their right to resign from the post of MLA and carry on any vocation of their



choice including public service cannot be denied by the Respondent Speaker by a completely illegal and unconstitutional order. The action of the Speaker is thus in violation of the fundamental rights of the Petitioners guaranteed under Articles 19 and 21," they have argued.

They have also challenged the then Speaker's conclusion that their resignations were neither voluntary nor genuine. The legislators asked the SC to call for the records of the proceedings pertaining to their resignation and disqualification. They argued that the disqualification order under the Tenth Schedule was not in consonance with the Rules 6 and 7 of the Karnataka Legislative Assembly (Disqualification of Members on Ground of Defection) Rules of 1986. They said the ac-

tions of the former Speaker were wholly arbitrary and unreasonable and in violation of Article 14 of the Constitution.

Besides, they argued, not only had they submitted their resignations on July 6, they repeated the act by coming in person again on July 11 before the Speaker to submit their resignations.

Under Article 190 of the Constitution read with Rule 202 of the Karnataka Legislative Assembly, a member can deliver resignation signed in his own hand and the Speaker is only to satisfy himself about genuineness and voluntariness of the resignation, they contended. The legislators further blamed the former Speaker of adopting a "pick-and-choose" policy.

The petitions said the then Speaker had slipped out of his office when the legislators went to tender their resignations on July 6. He did not comply when the Supreme Court, on July 11, asked him to decide the resignations on the same day. The floor test, which was supposed to be held on July 18, was thus unduly delayed.